

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

GLENN WILLIAMS, et al.	)	
	)	
Plaintiffs,	)	
	)	Case No. 20-CV-420
v.	)	
	)	Judge LaShonda A. Hunt
	)	
	)	Magistrate Judge Heather K. McShain
	)	
CITY OF CHICAGO, et al.,	)	
	)	
Defendants.	)	

**DEFENDANT CITY OF CHICAGO’S MOTION TO STRIKE PLAINTIFFS’ MOTION  
FOR LEAVE TO FILE THEIR THIRD AMENDED COMPLAINT OR  
ALTERNATIVELY MOTION FOR EXTENSION OF TIME**

Defendant the City of Chicago (“City”) through its attorney, the Office of the Corporation Counsel for the City of Chicago, moves this Court to strike Plaintiffs’ Motion for Leave to File a Third Amended Complaint for failure to comply with this Court’s October 18, 2023 Order or alternatively for an extension of time to file their response to Plaintiffs’ Motion for Leave to File a Third Amended Complaint pursuant to Fed. R. Civ. P. 6(b)(1). In support of this motion, Defendant submits the following.

1. Plaintiffs filed their original Complaint on January 19, 2020, which set forth the following 7 Counts on behalf of 8 putative class Plaintiffs against approximately 11 Defendants:

- i. Violation of the Americans with Disabilities Act (“ADA”);
- ii. Violation of the ADA;
- iii. Violation of the Genetic Information Nondisclosure Act (“GINA”)
- iv. Violation of Civil Racketeer Influenced and Corrupt Organizations Act (“RICO”);
- v. RICO Conspiracy;
- vi. Violation of the Labor Management Reporting and Disclosure Act (“LMRDA”);
- vii. Common Law Accounting.

2. On August 14, 2020, nearly 8 months after the filing of the original Complaint, Plaintiffs filed an Amended Complaint (“AC”)(Dkt. No. 51), which set forth approximately 14 counts against approximately 34 Defendants including the City and 12 current or former City employees and elected officials. Plaintiffs’ AC set forth counts for the violation of:

- i. ADA - 42 U.S.C. § 12112(d)(4)(B) & (C)
- ii. ADA - 42 U.S.C § 12112(b), § 12111(5)(A);
- iii. ADA - Title V, 503 (a), 42 U.S.C. § 12203(A);
- iv. GINA - 42 U.S.C. § 2000ff-1(b),
- v. Breach of Fiduciary Duties;
- vi. 42 U.S.C. 1983 (Voluntarily Dismissed)
- vii. Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 et seq. (Voluntarily Dismissed); 8) Uniform Deceptive Trade Practices Act, 815 ILCS 510/2(a)(2) (Voluntarily Dismissed);
- viii. Illinois Genetic Information Privacy Act, 410 ILCS 513/1 et seq.;
- ix. Breach of Contract;
- x. Unjust Enrichment;
- xi. Tortious Interference;
- xii. Violation of the Illinois Wage Payment and Collection Act;
- xiii. RICO - 18 U.S.C. 1962 (a) - (d);
- xiv. Common Law Accounting.

3. The City Defendants filed a Motion to Dismiss Plaintiffs’ AC on August 17, 2021. Dkt. Nos. 108-109.

4. The remaining Defendants filed motions to dismiss Plaintiffs’ claims in the AC on October 1, 2021. Dkt Nos. 136-149.

5. In lieu of responding to the City’s Motion to Dismiss, (Dkt. 108-109) or the 6 other motions to dismiss filed on behalf of the remaining Defendants, Plaintiffs requested leave to file a second amended complaint, stating:

[Plaintiffs] do not oppose dismissal (without prejudice) of all federal claims against all defendants other than the City of Chicago. Plaintiffs request that the Court decline to exercise jurisdiction over all state law claims advanced against all defendants other than the City of Chicago. In the alternative, plaintiffs request that the Court grant them leave to file a second amended complaint to restate the state law claims against these defendants in a more concise manner than in the operative complaint.

Dkt. No. 163.

6. Plaintiffs’ further acknowledged that the AC was “unclear about the nature of plaintiffs’ federal claims and the parties against whom those claims are asserted. An amended complaint will assist the Court and the parties in addressing the issues presented in this case.” *Id.*

7. Notably, Plaintiffs’ current counsel, Robert Holstein, signed Plaintiffs’ pleading requesting that all parties other than the City be dismissed. *Id.*

8. On March 8, 2022, Plaintiffs filed a Second Amended Complaint, in which Plaintiffs named only the City, and set forth claims for:

- i. ADA;
- ii. GINA;
- iii. Equal Protection clause under the 14th Amendment of the U.S. Constitution pursuant to 42 U.S.C. § 1983 (“Section 1983”);
- iv. Due Process under the 14th Amendment of the U.S. Constitution pursuant to Section 1983.

9. On March 25, 2022, the City filed a Motion to Dismiss Plaintiffs’ Second Amended Complaint. Dkt. No. 181.

10. This Court granted the City’s Motion in part, and dismissed the claims of all Plaintiffs other than James Burris and Browgley Russell and dismissed all counts other than the GINA count. Dkt Nos. 192 and 203.

11. The Parties conducted class discovery on Plaintiffs’ GINA claim and class discovery is now closed. Dkt. No. 238.

12. Plaintiffs filed a Motion for Leave to File a Third Amended Complaint on October 17, 2023. Dkt. No. 242.

13. Plaintiffs’ proposed Third Amended Complaint sets forth Counts by 6 previously dismissed Plaintiffs – Glenn Williams, Michelle Russell, Richard Williams, Steve Ladislas, Sharon Burris, and Katina Burris. Dkt No. 242-1.

14. Plaintiffs' Third Amended Complaint Sets forth Counts for violation of the ADA and Constitutional claims that were previously dismissed by the Court. (*See* Dkt. Nos. 193 and 203).

15. Plaintiffs' Third Amended Complaint sets forth 5 individual City Defendants that Plaintiffs previously voluntarily dismissed as well as approximately 16 other Defendants that Plaintiffs previously voluntarily dismissed.

16. Plaintiffs' Third Amended Complaint sets forth 14 counts:

- i. ADA (previously dismissed by the Court, *See* Dkt. Nos. 193 and 203);
- ii. GINA;
- iii. Breach of Fiduciary Duties (previously voluntarily dismissed);
- iv. Constitutional claims pursuant to Section 1983 (dismissed by the Court *See* Dkt. Nos. 193 and 203);
- v. Illinois Consumer Fraud and Deceptive Practices Act (previously voluntarily dismissed);
- vi. Uniform Deceptive Practices Act (previously voluntarily dismissed);
- vii. Violation of the Illinois Insurance Information Privacy Act (previously voluntarily dismissed);
- viii. Violation of the Illinois Genetic Information Privacy Act (previously voluntarily dismissed);
- ix. Unjust enrichment (previously voluntarily dismissed);
- x. Tortious Interference (previously voluntarily dismissed);
- xi. Third Party Beneficiary Contract Rights; (previously voluntarily dismissed);
- xii. RICO (previously voluntarily dismissed);
- xiii. RICO Conspiracy (previously voluntarily dismissed); and
- xiv. Common Law Accounting (previously voluntarily dismissed).

17. On October 18, 2023, the Court ordered Plaintiffs "to immediately file an exhibit containing a redline that reflects all changes from the second amended complaint, in accordance with the case procedures posted on Judge Hunt's website." Dkt. No. 243.

18. Plaintiffs filed an exhibit, but failed to file a document that reflects most changes from the Second Amended Complaint. Dkt. No. 245. Rather, the document filed by Plaintiffs does not meaningfully demonstrate the changes set forth in the proposed Third Amended Complaint. *Id.*

19. The City respectfully requests this Court to strike Plaintiffs' Motion for Leave to file their Third Amended Complaint for failure to comply with this Court's Order.

20. Alternatively, the City respectfully requests that the Court grant Defendants an additional 14 days to file their response to Plaintiffs' Motion for Leave to File a Third Amended Complaint, which is currently due on October 31, 2023.

21. On Friday October 17, 2023 at 11:27 a.m., the undersigned counsel requested Plaintiffs' position as to the City's request for an additional 14 days to respond to Plaintiff's Motion for Leave to File their Third Amended Complaint, and counsel for the Plaintiffs have not responded as of the filing of this motion.

### **CONCLUSION**

Defendant City of Chicago respectfully requests the Court strike Plaintiffs' Motion for Leave to file their Third Amended Complaint, or alternatively grant the City an additional 14 days until November 14, 2023 to file their response to Plaintiffs' Motion for Leave to File their Third Amended Complaint.

Dated: October 27, 2023

Office of the Corporation Counsel

By: /s/ Derek R. Kuhn  
DEREK R. KUHN  
Assistant Corporation Counsel Supervisor